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CENTRAL INTELLIGENCE AGENCY

Office of Congressional Affairs

Washington, D.C. 20505

Telephone: 482-6136

TO: Mr. Sven Holmes
Staff Director
Senate Select Committee on Intelligence

We have recently sent HPSCI a copy of our annual report on the Administration of the CIA Retirement and Disability System for FY87. Attached is a copy for your records.

Attachment
As Stated



29 January 1988

FORM 2-86 **1533**


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ANALYSIS OF DESIGNATION OF PARTICIPANTS
UNDER SECTION 203 OF THE CIA RETIREMENT ACT


December 1987

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PART I

INTRODUCTIONWHY THIS STUDY WAS MADE

This report is primarily a review of the manner in which the Central Intelligence Agency exercises its discretion to designate employees for participation in the Central Intelligence Agency Retirement and Disability System (CIARDS). It is the twelfth in a series of reports which the Agency submits annually to appropriate Committees of the Congress on its administration of the Central Intelligence Agency Retirement Act for Certain Employees. [REDACTED]

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In 1964 the Congress enacted the Central Intelligence Agency Retirement Act for Certain Employees (50 U.S.C. 403). That Act authorized the Director of Central Intelligence to establish a retirement system that would apply to some, but not all, Agency employees. The law provided very broad guidelines under which the Director could exercise discretion to designate employees for participation. The Agency, by regulation, has made these guidelines more specific. [REDACTED]

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An employee must perform at least sixty months of qualifying service to be eligible for participation in CIARDS. All overseas service is qualifying regardless of location or of type of duties performed. Overseas means outside the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam. Domestic service is qualifying only if it meets rigid requirements involving hazard or the exercise of

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tradecraft, or if it is so sensitive or specialized that an employee cannot disclose his or her duties in order to qualify for other employment after retirement. [] 25X1

During the hearings that led to enactment of the CIA Retirement Act, both the Congress and the Agency made it clear that not all employees would participate in the new retirement system. It was generally understood that the system would cover about one-fourth to one-third of all Agency employees. []

In 1976, in the course of a hearing on a pending Bill, HR 13615, some members of the House Armed Services Committee expressed concern that the Agency might be designating more employees for participation in CIARDS than the Congress had intended. This concern was expressed in a directive to the Agency contained in the committee report on HR 13615:

"When the CIA Retirement Act was originally considered by Congress in 1964 particular attention was focused on Section 203 of the Act, which authorizes the Director to designate 'such Agency officers and employees whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system.' Essentially that provision was the basis for creating a separate retirement system, and it was the intent of Congress that this system should apply to the relatively small percentage of Agency employees who were actually subjected to these very special hazards.

"During the course of consideration of this legislation there have been indications that in recent years there may have been deviations on the part of the Agency in administering this separate system from a strict application of the provisions of Section 203 in designating officers and employees as participants in the CIA Retirement system in line with the original intent of Congress when that system was created.

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"Accordingly, in the exercise of its oversight function the Committee has directed that the CIA conduct a careful analysis of the application of the qualifying provisions of Section 203 of the CIA Retirement Act in designating participants with reference to the special circumstances justifying their inclusion, and that the results of such analysis be reported to the Committee by the Director of Central Intelligence not later than October 1, 1976, and on an annual basis thereafter." [REDACTED]

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In 1976 and 1977 reports were submitted to the House Armed Services Committee. Reports for later years were submitted to the House Permanent Select Committee on Intelligence, which now is charged with an oversight function with respect to the Central Intelligence Agency and which has expressed a desire that annual reports be continued. [REDACTED]

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SCOPE OF THIS REPORT

This report covers the fiscal year beginning 1 October 1986 and ending 30 September 1987. It is intended primarily as a review of the discretion exercised by the Agency in designating employees for participation in the special CIARDS system, with particular reference to the law, the regulations, and Agency policy as established by decisions made over the years. Attention is focused on the handling of employee requests for approval of domestic service as qualifying for CIARDS. [REDACTED]

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Statistical tables reflecting the end results of the Agency's operation of CIARDS show clearly that the system is consistently maintained for a limited number of Agency employees. [REDACTED]

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Although not intended to be a complete historical presentation of CIARDS, the report deals briefly with some of the events during the year that affect administration of the System. [REDACTED]

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HOW THE STUDY WAS CONDUCTED

The writer had unrestricted access to all files and records containing information related to the Agency's administration of CIARDS. This includes individual case records and the minutes, as well as the verbatim transcripts of meetings of the CIA Retirement Board. The recorded information was supplemented by personal contact with Agency officials and employees whose duties and responsibilities include aspects of CIARDS Administration.

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HOW THE REPORT IS ORGANIZED

The report consists of five parts:

- PART I INTRODUCTION
- PART II QUALIFYING SERVICE
- PART III REVIEW OF 1987
- PART IV STATISTICAL DATA
- PART V FINDINGS AND CONCLUSION

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CIA RETIREMENT BOARD

When the CIA Retirement Act was passed in 1964, the Director of Central Intelligence delegated to the Director of Personnel authority to act for him in a number of areas of administration of the new retirement system. These include authority to:

- (a) determine what services of employees are qualifying for CIARDS participation;
- (b) designate employees for participation, and
- (c) approve retirements under CIARDS. (U)

The CIA Retirement Board was established in 1964 to assist the Director of Personnel in exercising authority delegated to him. Technically the CIA Retirement Board does not make final decisions on CIARDS matters, but makes recommendations that become decisions when approved by the Director of Personnel. (U)

The Director of Personnel appoints a Chairman and four other members of the Board. Each member is a senior official of the Agency, and each represents a Directorate. (U)

The Board is assisted by staff consisting of

- (a) a Legal Advisor
- (b) a Technical Advisor
- (c) an Executive Secretary, and
- (d) a Recording Secretary who produces verbatim transcript of the proceedings of each meeting.

All of the staff members attend Board meetings but do not have a vote.

(U)

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The most difficult task assigned to the CIA Retirement Board is the determination of whether a period of service is qualifying for CIARDS purposes. This requires a knowledge of the law and the regulations as well as some familiarity with how individual cases have been decided over the 23 year history of the system. Turnover can be a substantial problem for an advisory board dealing with highly technical subject matter with which new Members have little or no background or experience. (U)

During the fiscal year that ended 30 September 1987, two Members were replaced. The Board now consists of a Chairman appointed in May of 1987 and four other Members appointed in August 1983, April 1984, July 1986 and December 1986. (U)

The Director of Personnel and one Member of the Board are participants in CIARDS, while the Chairman and the other three Members are in the Civil Service Retirement System. (U)

The current Executive Secretary was appointed in FY 1983, the current Legal Advisor was appointed in FY 1985, and the current Recording Secretary has assisted the Board for at least the past 12 years. The Technical Adviser was replaced during FY 1987. (U)

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EXECUTIVE ORDERS

There were no Executive Orders to conform CIARDS to legislation enacted to amend the Civil Service Retirement Act issued during fiscal year 1987. (U)

The most recent Executive Order was Executive Order 12485 issued 13 July 1984, and this order brought CIARDS up to date with all CSRS amendments at that time. (U)

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